

## REMARKS

This response is to the action mailed in the above-referenced case on 07/24/2006. Claims 1-8 and 11-28 are standing for examination. In the action the Examiner rejects claims 1-8 and 11-28 under 35 U.S.C 103(a) as being unpatentable over Eldering (US 6,324,519) hereinafter Eldering, in view of Petty et al. (US 6,337,858) hereinafter Petty.

In response, applicant herein amends the independent claims to clarify that the users of the telephony services actually place a call to the telephony server. Applicant provides valid arguments below which clearly show that the combined art of Eldering and Petty fail to teach users of telephony services placing a call to a telephony server and receiving audio advertisements on a network via a voice markup language application located on the Internet.

In the Office letter, the Examiner admits that Eldering fails to teach the user uses the service to access the service and relies upon Petty to teach said deficiency. Applicant argues that Eldering and Petty fail to teach the user of telephony services calls a telephony server in order to access services via a voice markup language application located on the Internet, which is now recited in applicant's independent claims, as amended.

Applicant argues that Petty fails to teach that the customer directly accesses the telephony server as claimed. Petty teaches that the user contacts the Web site over a data network and makes a telephony call request. The server of Petty, then places a voice call to the customer over the data network or telephony network and bridges the call so voice can occur (col. 3 Petty).

Applicant claims that bid data is received from advertisement providers over a network and that an audio advertisement is played over the network if the bid data is determined satisfactory. The processing of the bid data and the providing of an audio advertisement is done so that when a user uses telephony serves by directly connecting to a telephony server to access a voice markup language application located on the Internet, the service (made available by the voice markup language application) as well as the

stored audio advertisement are sent to the user.

Figs 5 and 6 of applicant's disclosure are flowcharts that depict steps to process an incoming call in accordance with the teachings of the present invention. Start indication block 90 indicates that process block 92 is performed. At process block 92, a ser/customer places a call in order to request a service. A telephony server receives the incoming call at process block 94. The combined art of Eldridge and Petty fail to teach applicant's claimed ability as argued above.

Therefore, claims 1 and 14 are patentable over the art of Eldridge and Petty. Dependent claims 2-8, 11-13, 15-28 are patentable on their own merits, or at least as depended from patentable claim.

It is therefore respectfully requested that this application be reconsidered, the claims be allowed, and that this case be passed quickly to issue. If there are any time extensions needed beyond any extension specifically requested with this amendment, such extension of time is hereby requested. If there are any fees due beyond any fees paid with this amendment, authorization is given to deduct such fees from deposit account 50-0534.

Respectfully submitted,  
Stuart Berkowitz et al.

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